

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3 UNITED STATES OF AMERICA)
)
4 vs.)
)
5 BRIAN DAVID HILL) CASE NO. 1:13CR435-1
) Winston-Salem, North Carolina
) September 12, 2019
) 3:37 p.m.
6 _____

7
8 TRANSCRIPT OF THE **SUPERVISED RELEASE REVOCATION HEARING**
9 BEFORE THE HONORABLE THOMAS D. SCHROEDER
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES:

12 For the Government: ANAND RAMASWAMY, AUSA
 Office of the U.S. Attorney
13 101 S. Edgeworth Street, 4th Floor
 Greensboro, North Carolina 27401
14

15 For the Defendant: RENORDA E. PRYOR, ESQ
 Herring Law Center
16 1821 Hillandale Road, Suite 1B-220
 Durham, North Carolina
17

18 Court Reporter: BRIANA L. BELL, RPR
 Official Court Reporter
19 P.O. Box 20991
 Winston-Salem, North Carolina 27120
20
21
22
23
24

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P R O C E E D I N G S

(The Defendant was present.)

THE COURT: All right. Mr. Ramaswamy, good afternoon, sir.

MR. RAMASWAMY: Good afternoon, Your Honor. The Government calls for hearing on a supervised release violation United States versus Brian David Hill in 1:13CR435-1, represented by Ms. Pryor.

MS. PRYOR: Good afternoon, Your Honor.

THE COURT: Good afternoon, Ms. Pryor. How are you?

MS. PRYOR: I'm wonderful, Your Honor. Thank you.

THE COURT: Mr. Hill, good afternoon to you.

Mr. Alligood and Mr. McMurray are here from the Western District of Virginia, welcome, here on behalf of Probation.

We're here today because the petition and the supplemental report allege that Mr. Hill violated the terms of supervision.

Did you receive a copy of the petition and the supplement?

MS. PRYOR: We did, Your Honor.

THE COURT: Have you reviewed those with your client?

MS. PRYOR: I have, Your Honor. And Mr. Hill is actually requesting a continuance of this matter today, Your Honor. I believe it was -- I won't said filed because we don't

1 have an actual clerk's office here, but I think he did provide
2 it on I believe the 8th floor, Your Honor, and because of the
3 time that he drafted it, it seems like last night, he didn't
4 have an opportunity to file it. So he did provide it to me, a
5 copy, today.

6 He's asking for a continuance because his matter in
7 state court was actually -- his appeal hearing was continued to
8 December 2. It was in order -- the first hearing that he had,
9 I believe he -- his attorney was released from that. He has a
10 new attorney in state court, and so they continued it out to
11 December 2.

12 And so Mr. Hill is asking, based on his rights here,
13 that he would like for his hearing to be heard -- in
14 Martinsville, Virginia, to be heard before this hearing today.

15 **THE COURT:** So explain to me exactly what is set for
16 hearing in Virginia.

17 **MS. PRYOR:** So, Your Honor, he was found guilty of
18 indecent exposure in Martinsville, Virginia. He appealed that
19 matter. That matter was scheduled for --

20 **THE COURT:** Let me stop you.

21 **MS. PRYOR:** I apologize, yes.

22 **THE COURT:** So he's found guilty in the trial court?

23 **MS. PRYOR:** He was found guilty at trial, yes, Your
24 Honor.

25 **THE COURT:** So he's appealed it to whom?

1 **MS. PRYOR:** He's appealed it to their -- which would
2 be their next level, which would be their superior court. In
3 that case, when he went to court on -- I think that was two
4 weeks ago, they continued that matter to December 2 to be heard
5 at that time, and he now has a new attorney.

6 **THE COURT:** And what's the nature of that appeal?

7 **MS. PRYOR:** It is the underlining matters that are
8 here on this case.

9 **THE COURT:** I understand. Is it a de novo review, or
10 is it an appeal?

11 **MS. PRYOR:** It would be a de novo review, Your Honor.

12 **THE COURT:** All right. What was he found guilty of?

13 **MS. PRYOR:** He was found guilty of the charges that
14 he's here for today, Your Honor, which was in violation of
15 indecent exposure. I think it's 137 -- I think it's 20-137,
16 which is indecent exposure. It is a misdemeanor, Your Honor.

17 **THE COURT:** According to the petition, it's Virginia
18 Code 18.2-387.

19 **MS. PRYOR:** I apologize, Your Honor. That's correct.

20 **THE COURT:** All right. Okay. Anything else on that?

21 **MS. PRYOR:** That's it, Your Honor. And then, of
22 course, you know, Your Honor, if you would not continue it,
23 we're prepared to proceed.

24 **THE COURT:** Well, I've also reviewed apparently today
25 a pro se emergency notice of interlocutory appeal. Are you

1 aware of that?

2 **MS. PRYOR:** That's what I actually have, Your Honor,
3 and I was referencing it as a continuance. Your Honor, I did
4 receive that. I believe it might be couched in the wrong -- in
5 what he's requesting. So, Your Honor --

6 **THE COURT:** This one says he's appealing to the
7 Fourth Circuit; is that not right?

8 **MS. PRYOR:** That is correct, Your Honor.

9 **THE COURT:** What he's appealing?

10 **MS. PRYOR:** Your Honor, he is appealing --

11 **THE COURT:** I haven't ruled yet.

12 **MS. PRYOR:** I know, Your Honor.

13 **THE COURT:** Okay. All right.

14 Mr. Ramaswamy?

15 **MR. RAMASWAMY:** As to this -- addressing this motion
16 --

17 **THE COURT:** Which "this"?

18 **MR. RAMASWAMY:** I'm sorry. There's no file number on
19 it, but the petition for notice of interlocutory appeal, it
20 would appear to the Government he's appealing Document 183,
21 that's in the second paragraph, which is the Court's order on
22 the motion to continue. That was a motion to continue by the
23 defense, which the Court granted and the Government didn't
24 oppose. So it would appear Mr. Hill's attempting pro se to
25 appeal an order that was in the Defendant's favor.

1 **THE COURT:** Hold on just a minute.

2 (Pause in the proceedings.)

3 **THE COURT:** Okay. What's your position on the other
4 motion? They want to continue this because he's appealing
5 Virginia -- the court's -- the trial court's determination.

6 **MR. RAMASWAMY:** I don't believe there is a motion --
7 unless it's one made orally, there is a motion to continue.

8 **THE COURT:** Do I have a written one?

9 **MS. PRYOR:** You do not have a written one, Your
10 Honor. That was an oral motion just now, Your Honor. That's
11 correct.

12 **THE COURT:** What's your view on that?

13 **MR. RAMASWAMY:** We would oppose, Your Honor. The
14 officer is here under subpoena. The Defendant is here. The
15 supervising officer is also here from Martinsville, Virginia.

16 **THE COURT:** Let me ask a question. When did the
17 court in Virginia rule?

18 **MS. PRYOR:** Your Honor, do you mind if I get a second
19 just to ask that question?

20 **THE COURT:** That's fine. I am going to want to know
21 when he took the appeal, too.

22 **MS. PRYOR:** Okay. Yes, Your Honor.

23 (Ms. Pryor conferred with the Defendant.)

24 **MS. PRYOR:** I apologize. Thank you, Your Honor.

25 Your Honor, he actually was found guilty on

1 December 21 of 2019. He filed a pro se appeal on December 21,
2 but it was mailed, so they did not have it couched as a pro se
3 appeal until December 26 of 2019 -- I mean, I'm sorry, 2018. I
4 apologize.

5 **THE COURT:** Okay. And then when was that scheduled
6 for hearing?

7 **MS. PRYOR:** Well, Your Honor, when he did have the
8 first hearing, they then -- he, of course --

9 **THE COURT:** When was the appeal scheduled to be
10 heard, the original?

11 **MS. PRYOR:** Oh, the original, it was not scheduled
12 until May and then -- that's only because he went off -- and I
13 know that's probably longer than what you are asking me for,
14 but they sent him to Butner for competency. He came back in
15 May. They did couch the first hearing for May, and then they
16 continued that one because he released that attorney. And then
17 in July, he had a hearing, which is the one that you gave us
18 permission to continue to this date for that hearing, but then
19 that hearing was then rescheduled. He has another attorney who
20 is going to be handling that hearing on December 2.

21 **THE COURT:** Okay. Well, the motion is denned. The
22 standard before this Court on a potential revocation of a
23 petition is a preponderance standard, which is a different
24 standard. So even if he were found not to be guilty beyond a
25 reasonable doubt in a criminal court, that would not

1 necessarily preclude this Court from finding him guilty on a
2 preponderance basis because that's the burden of proof. So it
3 is also a late-blooming motion, so on timeliness grounds as
4 well, I am going to deny the motion.

5 **MS. PRYOR:** Thank you, Your Honor.

6 **THE COURT:** All right. I read this emergency
7 petitioner's notice of interlocutory appeal. To the extent
8 that's even pending before me, it's not an impediment to my
9 moving forward. He's purporting to appeal an order that, as
10 the Government says, was one I granted in his favor, extending
11 him more time to proceed. So he's not been harmed by that
12 order, but, in any event, it's interlocutory.

13 So are you prepared to proceed?

14 **MS. PRYOR:** Yes, sir.

15 **THE COURT:** Did you say you reviewed the petition and
16 the supplement with your client?

17 **MS. PRYOR:** I did review it with him, yes, Your
18 Honor.

19 **THE COURT:** Do you have access to his original
20 presentence report?

21 **MS. PRYOR:** I do, Your Honor.

22 **THE COURT:** And are you confident that he understands
23 the charges pending against him?

24 **MS. PRYOR:** I am confident that he understands the
25 charges that are here today.

1 **THE COURT:** All right. Mr. Hill, I need to speak
2 with you for a moment, if you would stand, please, sir.

3 How are you this afternoon?

4 **THE DEFENDANT:** I'm all right.

5 **THE COURT:** Good. Did you receive a copy of the
6 petition and supplement?

7 **THE DEFENDANT:** I did.

8 **THE COURT:** Did you review those with Ms. Pryor?

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** Do you understand the charge against you?

11 **THE DEFENDANT:** I am.

12 **THE COURT:** You may have a seat, sir.

13 The allegation in the petition is that Mr. Hill was
14 arrested by the Martinsville, Virginia Police Department for a
15 misdemeanor indecent exposure on September 21, 2018. He
16 reportedly was running around a public park nude at the time.

17 Does the Defendant admit or deny this allegation?

18 **MS. PRYOR:** He denies, Your Honor.

19 **THE COURT:** All right. Is the Government prepared to
20 proceed?

21 **MR. RAMASWAMY:** Yes, Your Honor.

22 **THE COURT:** All right. You may call your witnesses.

23 **MR. RAMASWAMY:** Thank you. The Government would call
24 Robert Jones.

25 **SERGEANT ROBERT JONES,** GOVERNMENT'S WITNESS, being first duly

1 sworn, testified as follows at 3:48 p.m.:

2 **THE COURT:** Before you begin, give me a chance to
3 look at one thing.

4 **MS. PRYOR:** Your Honor, may I have just one moment
5 with my client?

6 **THE COURT:** Yes, you may.

7 (Ms. Pryor conferred with the Defendant.)

8 **THE COURT:** Okay. I was just confirming that it's
9 Docket Entry 176, that the U.S. Court for the Western District
10 of Virginia in Roanoke did, in fact, find Mr. Hill to be
11 competent. That appears to be the case.

12 **MS. PRYOR:** That is correct, Your Honor.

13 **THE COURT:** Thank you. All right.

14 Mr. Ramaswamy, you may proceed, sir.

15 DIRECT EXAMINATION

16 **BY MR. RAMASWAMY**

17 Q Would you state your name and occupation for the record,
18 please.

19 A Robert Jones, patrol sergeant in the Martinsville City
20 Police Department.

21 Q How long have you been with the Martinsville PD?

22 A Just over 17 and a half years.

23 Q And were you on duty on September 21st of last year?

24 A I was.

25 Q And what were your duties on that date?

1 A I was the supervisor for the patrol shift that evening.

2 Q Did you receive a call from dispatch that evening?

3 A We did.

4 Q What was that call in reference to?

5 A Radio traffic came across as a male subject with no
6 clothes on running down the side of the street at Hooker Street
7 near the Henry County Public Safety building.

8 Q And what did you do in response to that call?

9 A Several of the officers that work for me went to that area
10 and were trying to locate that individual. I came from another
11 part of the town. As I came across, they were not having any
12 luck locating him. I went to an area of Pine Street. At the
13 dead end section of that, there is a set of steps that go onto
14 the walking trail that connects where the individual was first
15 seen to where I was coming from.

16 Q You mentioned Hooker Street was the original place of the
17 report; correct?

18 A Correct. It's Hooker Street and Church Street there at
19 Burger King. It's an intersection right there at that area.

20 Q You mentioned the walking trail. What's the name of that
21 trail?

22 A It is the Dick and Willie Trail.

23 Q And do you know approximately how long that trail is?

24 A It's several miles long.

25 Q And in reference to Martinsville, where does it go in

1 reference -- is it remote or is it residential or a mixture?

2 A A mixture.

3 Q I believe you said you went to a set of steps near Pine
4 Street; is that correct?

5 A Yes, sir.

6 Q Would you tell the Court what happened next?

7 A I went down the steps around the edge of the intersection
8 there where the trail splits off back towards the direction
9 where the individual had been seen. As I was coming up the
10 trail, I could hear footsteps coming towards me; at which
11 point, I stopped to see if the individual would come closer to
12 me before I made contact.

13 Q On that trail, is that trail open at night?

14 A It is.

15 Q Is it a park?

16 A It's a walking trail that goes from the county through the
17 city back out into the county.

18 Q And you said you heard the footsteps before you saw
19 someone?

20 A Correct.

21 Q Did you eventually see someone?

22 A I did.

23 Q Did you see him -- did you have a flashlight?

24 A I did.

25 Q Did you see him by your flashlight or by other light?

1 A By my flashlight.

2 Q And do you see the person that you saw that night?

3 A I do.

4 Q And is he in the courtroom?

5 A He is. It's the Defendant sitting at the table with his
6 attorney.

7 Q Mr. Hill?

8 A Correct.

9 Q Describe Mr. Hill when you saw him.

10 A When I shined my light on Mr. Hill, he was completely
11 naked other than a backpack, his tennis shoes and socks, and a
12 stocking cap.

13 Q How far away was he when you first saw him?

14 A About the length of the courtroom.

15 Q And when you -- after you saw him, what did you do?

16 A I yelled at him to stop. When I shined my flashlight on
17 him, he took off, which would have been where I was facing to
18 my left into the wood line and down the hill into the creek.

19 Q Did you see him holding anything?

20 A He did. He had a yellow flashlight in his hand and then
21 also another black object, which was later found to be another
22 flashlight in his other hand.

23 Q I'm sorry. After he ran down the hill and into the wooded
24 area, did you pursue?

25 A I did.

1 Q Describe that for the Court, please.

2 A We run through the brush, through the thicket down into
3 the creek; at which point, he jumped over a log into the creek.

4 Q Was he still holding the objects?

5 A One of the objects had fell. The small black flashlight
6 had fallen. That was picked up by one of the other officers
7 that came to assist me.

8 Q And what did you do next?

9 A He was handcuffed at that point and was walked out of the
10 wooded area back to the patrol cars that met us at -- off of
11 Hooker Street on one of the side streets.

12 Q You mentioned two flashlights in a backpack. Did he have
13 anything else with him?

14 A Yes, there was -- in his backpack was located a camera.

15 Q Did Mr. Hill make any statements to you at that time?

16 A He was complaining of knee pain; at which point, we
17 transported him to the hospital to get him checked out to make
18 sure he was okay. While there, he proceeded to explain to me
19 that the reason he was out there like that was because a male
20 subject -- a black male in a hoodie had threatened him and
21 forced him to take pictures of himself.

22 Q What -- did he gave any more detail than that, a black
23 male in a hoodie forced him to take photos?

24 A He did. He said that the male subject threatened him and
25 his family and told him that he needed to take these photos of

1 himself naked; otherwise, they were going to hurt his family.

2 Q Did he make any statement as to whether or not this person
3 knew his family?

4 A When questioning him if the male subject was with him when
5 he took the photos and stuff that were on the camera, he stated
6 he was not with him. And when questioned about that and why he
7 didn't come to see us and asked him -- he proceeded to explain
8 to us that this subject was working for law enforcement and
9 other individuals in reference to his prior charges.

10 Q So it was a story that his original child pornography
11 charge -- that this unknown person was somehow affiliated with
12 that charge?

13 A Correct.

14 Q What did he say about the camera itself?

15 A He said that the -- originally said that the male subject
16 had given him the camera to go take the photos. I had seized
17 the camera during this time. A search warrant was issued for
18 it, and on the camera card -- on the SD card inside the camera
19 was a Word document that belonged to Mr. Hill.

20 Q Were there other things on the camera card?

21 A Photos from that evening.

22 Q Did he say what he was supposed to do with the camera
23 after he took these pictures?

24 A He did. He was supposed to leave it on one of the benches
25 on the walking trail.

1 Q Now, did you obtain a search warrant for the contents of
2 the camera?

3 A I did.

4 Q And did you later find the photographs and document you
5 mentioned on the camera?

6 A Correct.

7 **MR. RAMASWAMY:** May I approach?

8 **THE COURT:** Yes.

9 **BY MR. RAMASWAMY**

10 Q Officer Jones, I'm going to show what's marked as
11 Government's Exhibit 1, which is a two-page exhibit, a contact
12 sheet. Do you recognize what's on Government's Exhibit 1?

13 A Yes. These are thumbnails of the photos that were found
14 on that card.

15 Q I'm going to ask you to look at Government's Exhibit 1,
16 and on the photographs themselves, does there appear to be a
17 time/date stamp?

18 A It is.

19 Q Is that time/date stamp consistent with the day that the
20 incident occurred?

21 A It is.

22 Q And also below each photograph is some text that begins
23 with the word "Sanyo," and the first one at the top left of
24 Government's Exhibit 1 says sanyo001.jpg. Do you know what
25 that is?

1 A That's the -- normally, that's the stamp that the camera
2 puts onto the card for the photo that's stored on it.

3 Q So that's the file name for each of the photographic files
4 on the camera?

5 A Correct.

6 Q Is what's shown in Government's Exhibit 1 all of the
7 photographs found on Mr. Hill's camera?

8 A Yes.

9 Q And I know there are --

10 **MR. RAMASWAMY:** I would ask that Government's
11 Exhibit 1 be admitted, Your Honor.

12 **MS. PRYOR:** Your Honor, we have no objection. Just
13 ask that it be sealed because of the nature of it.

14 **THE COURT:** All right. It's admitted.

15 **BY MR. RAMASWAMY**

16 Q I'm going to ask you about Government's Exhibit 1 in
17 relation to this trail, the Dick and Willie Passage. In your
18 further investigation or knowledge, were you able to determine
19 whether these photographs were taken in reference to that
20 trail?

21 A Further investigation from the initial incident, it looks
22 like all of these were taking place at the Greene Company right
23 behind the Mexican restaurant right in that area, Virginia
24 Avenue, Memorial Boulevard, and Commonwealth Boulevard.

25 Q What type of area is that?

1 A It's the Wal-Mart -- it's our Wal-Mart intersection.
2 There's several restaurants, a gas station right here in this
3 little area, along with a hotel there as well.

4 Q In terms of Martinsville, or Henry County, is it -- how
5 would you describe it in terms of car traffic? Foot traffic?

6 A Heavy traffic.

7 **THE COURT:** Any objection to sealing these, given the
8 nature of them?

9 **MR. RAMASWAMY:** I don't have any objection.

10 **MS. PRYOR:** Thank you.

11 **THE COURT:** I'll order that they be sealed, that is,
12 Government's Exhibit 1.

13 **BY MR. RAMASWAMY**

14 Q It's Detective Jones; correct?

15 A Sergeant Jones.

16 Q I'm sorry.

17 A No problem.

18 Q Sergeant Jones, I'm going to show what's marked as
19 Government's Exhibit 2. Do you recognize Government's
20 Exhibit 2?

21 A Yes, sir.

22 Q In Government's Exhibit 2 is a map, arrows, and some text.
23 Have you previously reviewed this in relation to the
24 photographs and file names?

25 A Yes, sir.

1 Q And as it describes in numbered sequence one through five,
2 does that accurately show, as to the files in Government's
3 Exhibit 1, the locations where those photographs were taken?

4 A Yes, sir. These are consistent with the photographs.

5 Q Those photographs I mentioned before have a time stamp;
6 correct?

7 A Correct.

8 Q And for the record, on Government's Exhibit 2, on the
9 first number there, under No. 1, when do the photographs begin,
10 as far as the time stamp?

11 A At 12:29 a.m.

12 Q Sergeant Jones, I'm showing you what's marked as
13 Government's Exhibit 3, and I want you in reference to -- what
14 does Government's Exhibit 3 show?

15 A This is photographs of the Greene Company from Virginia
16 Avenue over the bridge, along with the beginning of the walking
17 trail there for parking, the bike rack, and the little bulletin
18 board there at the beginning of the trail.

19 Q You mentioned that bike rack and bulletin board. That's
20 approximately in the center of the large photograph; correct?

21 A Correct.

22 Q And the bike rack is that the green --

23 A Just the little -- right beside the green trash can and
24 bulletin board.

25 Q Do you see those same -- that bulletin board and bike rack

1 and trash can in Government's Exhibit 1, in those photographs?

2 A Yes.

3 Q And I'll show you what's marked Government's Exhibit 4.

4 Again, another large photograph in the daytime -- taken in the
5 daytime. Do you recognize that?

6 A Yes, sir. That is the backside of the Greene Company and
7 their parking lot, along with the Taco Bell old truck --
8 transfer truck that they have there.

9 Q That says Taco Bell?

10 A Minus a few letters.

11 Q Okay. On the second page of Government's Exhibit 1, is
12 there are also a Taco Bell truck with the B and final L missing
13 from Bell?

14 A Correct.

15 Q Is that what you were able to determine was the location
16 of the photographs shown on the back -- the second page of
17 Government's Exhibit 1?

18 A Yes, sir.

19 Q I'll show you what's marked Government's Exhibit 4 --
20 Government's Exhibit 5. Would you tell us what's shown in that
21 photograph?

22 A That is the intersection for the Commonwealth, Virginia
23 Avenue, Memorial Boulevard intersection.

24 Q And that's a photograph taken in the daytime; correct?

25 A Correct.

1 Q Now, in relation to Martinsville, Henry County -- well,
2 strike that.

3 Is that the same intersection that has the Wal-Mart on the
4 one side and other businesses on the other?

5 A Correct.

6 Q In relation to Martinsville and Henry County, how busy of
7 an intersection is that? Is it a -- it's in the top?

8 A It's one of our busiest intersections for that area.

9 Q I am going to show you a photograph marked Government's
10 Exhibit 6.

11 **MR. RAMASWAMY:** And I have no objection if counsel
12 moves to seal this one as well, Your Honor.

13 **MS. PRYOR:** That would be my request, Your Honor.

14 **THE COURT:** All right. It's granted.

15 **BY MR. RAMASWAMY**

16 Q I have some questions related to Government's Exhibit 6.
17 What is shown in that exhibit?

18 A This is the grassy section just up from the intersection
19 behind the gas station. The Wal-Mart intersection is here with
20 the stoplights. The signs for all the stores down there in the
21 strip mall just below Wal-Mart is here in the smaller, lower
22 right-hand corner.

23 Q And you're pointing to the lower right-hand corner of
24 Government's Exhibit 6. Is there also a yellow sign with a
25 semicircular top about in the center near the bottom?

1 A Yes, sir.

2 Q What business is that?

3 A That's one of the businesses right here on the main strip.
4 I think it's a Midas or Monroe, something to that effect, and
5 then Hill Chiropractic is right there as well.

6 Q Is that a tire store?

7 A Correct.

8 Q And is that visible? Is this intersection visible in
9 Government's Exhibit 5?

10 A Yes, sir. It's right here.

11 Q And you're pointing to -- in Government's Exhibit 5, on
12 the right, you're pointing to where there's a Lowe's sign, in
13 between the Lowe's and the Wal-Mart?

14 A Right. The Hill Chiropractic sign is here just at the
15 stoplight, the Monroe Muffler shop is here, and the Wal-Mart
16 intersection is all right there together.

17 **MS. PRYOR:** Your Honor, do you mind if I move closer
18 just so I can see where they're pointing? I am unable to see
19 it from here.

20 **THE COURT:** Why don't you hold it up so counsel can
21 see it.

22 **THE WITNESS:** The Wal-Mart intersection is here where
23 the blue sign is. We've got the yellow building, which is the
24 muffler shop, tire shop there, and then just past that one with
25 this other brick building behind it is the Hill Chiropractic

1 building.

2 **BY MR. RAMASWAMY**

3 Q I have a couple more.

4 Directly -- is Mr. Hill shown in this Government's
5 Exhibit 6?

6 A He is.

7 Q In the space between his arm, is there a sign visible?

8 A It is.

9 Q Do you see that same sign in Government's Exhibit 5?

10 A Yes, sir.

11 Q What sign is that in Government's Exhibit 5?

12 A It's the Mexican restaurant sign, the El Parral.

13 Q And do you also see behind Mr. Hill in Government's
14 Exhibit 6 what appears to be a yellow curb?

15 A I do.

16 Q Do you see that yellow curb in Government's Exhibit 5?

17 A I do. That is actually the Stultz Road intersection.

18 Q Can you tell on Government's Exhibit 5 the vantage point
19 from which Government's Exhibit 6 was taken?

20 A That appears to be the grassy section behind the gas
21 station, which is Fast Fuels.

22 Q I'm going to give you a pen. If you would mark on there,
23 if you're able.

24 A Fast Fuels would be up here just out of camera view, and
25 it would be down here in this corner in Photo 6.

1 Q So you placed a small dot on each photograph, which is the
2 apparent vantage point on Government's Exhibit 5 from which
3 this photo was taken; correct?

4 A Correct.

5 Q Do you see anything other than the store lights in
6 Government's Exhibit 6?

7 A Yes, sir. There appears to be taillights from a vehicle
8 passing at the intersection.

9 Q And that is on the photograph just to the right of the
10 Defendant's leg with the black sock?

11 A Correct, which would be roughly two-thirds down the page,
12 middle of the page.

13 Q In relation to this trail, do you -- strike that.

14 Let me show what's marked as Government's Exhibit 7, and I
15 ask you to take a moment and look at that.

16 Have you seen that exhibit before?

17 A I have.

18 Q Would you describe what's in the exhibit?

19 A It's a roadmap of the city and locations of where the
20 photos were originally started and a location of the time of
21 the original call that we received from dispatch and
22 approximate arrest location.

23 Q So there's four annotations on here. This 310 Forest
24 Street, do you know what that is?

25 A That's down where the suspect lived, Mr. Hill.

1 Q And everything -- as far as the photographs, were those
2 taken where it says photos taken here, 12:29 to 1:20 a.m.?

3 A Correct.

4 Q And I may not have asked you the time that the call came
5 in to the police, but do you know what time that call came in?

6 A It was 3:12 in the morning.

7 Q And is this -- can you review the place where it says
8 "arrest"? Is that accurate as to the place to which the
9 Defendant was arrested?

10 A Yes, sir.

11 Q The distance between where the photographs were taken and
12 where it shows the 911 call location was made, can you tell
13 even approximately what distance was that?

14 A It's a couple of miles.

15 **MR. RAMASWAMY:** One moment, please.

16 **THE COURT:** Sure. While you're going through that,
17 just so counsel has an idea, I can go until about 5:15 today.
18 So if you think you need to go beyond that, we'll have to make
19 arrangements.

20 **MR. RAMASWAMY:** I don't anticipate -- thank you, Your
21 Honor. I am sorry to interrupt. I don't anticipate more than
22 two other exhibits, and my evidence will be all through this
23 witness.

24 **THE COURT:** All right.

25

1 **BY MR. RAMASWAMY**

2 Q I'm going to show you a four-page exhibit marked as
3 Government's Exhibit 8, and I ask that you take a moment and
4 look at that, please.

5 Sergeant Hill [sic], can you tell -- have you seen
6 Government's Exhibit 8 before?

7 A I have.

8 Q What is it?

9 A It's the document that was found on the SD card in printed
10 version that belonged to Mr. Hill that was on the camera when
11 we did the search warrant.

12 Q So this document was on the same card as the photographs?

13 A Correct.

14 Q And I will show what's been marked as Government's
15 Exhibit 9. I'll ask that you take a look at that.

16 In your examination of the contents of the camera card,
17 did you observe the properties for that four-page document I
18 just showed you?

19 A I did.

20 Q And is this a screenshot of the properties?

21 A It is.

22 Q And under the author, what does it say?

23 A Brian D. Hill.

24 Q Did you ever see anyone else on the trail that night
25 besides Mr. Hill?

1 A No, that's the only person that I came into contact with.

2 Q Other than September 21, were you -- of last year, were
3 you aware of other calls in reference to a naked person on that
4 trail or in that area?

5 A We have had other calls in the city in reference to a
6 white male running naked with a stocking cap on, which was
7 consistent with Mr. Hill.

8 Q Did you get similar calls after Mr. Hill was arrested in
9 this case?

10 A We've had, I know, two other calls for indecent exposure
11 incidents, but they were both identified as not being Mr. Hill.

12 Q And you mentioned he was -- he was charged with indecent
13 exposure; correct?

14 A Correct.

15 Q Are you familiar with the Virginia statute?

16 A Yes, sir.

17 Q I will show you what's been marked as Government's
18 Exhibit 10, and ask that you take a look at that and see if you
19 recognize that.

20 A Yes, sir.

21 Q What is Government's Exhibit 10?

22 A That is a printout of our state statute for indecent
23 exposure.

24 Q And that's under your Virginia Code Section 18.2-387;
25 correct?

1 A Correct.

2 Q That's what Mr. Hill was charged with?

3 A He was charged under our local statute, which mimics this
4 just for funding purposes.

5 Q There was mention before about a trial. Was that a bench
6 trial?

7 A Yes, sir.

8 Q So the current matter on appeal was on appeal for jury
9 trial; correct?

10 A It was slated for a jury trial, yes, sir, it was.

11 Q Do you know when that was set for trial?

12 A It was a couple of weeks ago. It was continued. I'm not
13 sure of the exact date. I don't have my calendar.

14 **MR. RAMASWAMY:** I have no other questions.

15 **THE COURT:** All right. Are you moving any of these
16 in?

17 **MR. RAMASWAMY:** I'm sorry. I believe I moved for
18 Government's Exhibit 1. For the remainder of the exhibits,
19 we'd asked that they be admitted, and I believe two of them are
20 under seal, Your Honor.

21 **THE COURT:** Any objection?

22 **MS. PRYOR:** No objections, Your Honor.

23 **THE COURT:** They are admitted, and Exhibit 1 and
24 Exhibit 5 are under seal.

25 Ms. Pryor, any questions?

1 **MS. PRYOR:** Yes, Your Honor.

2 CROSS-EXAMINATION

3 **BY MS. PRYOR**

4 Q Can you tell us -- I believe you stated that the call came
5 in around what time?

6 A Around 3:12 in the morning.

7 Q And was that the only call that you received?

8 A It was.

9 Q Okay. And at 3:12 in the morning, are any of the places
10 that's on the map, I believe Taco Bell, the Mexican
11 restaurants -- are those places open at that time?

12 A The Greene Company that has the Taco Bell delivery truck
13 is not open at that point. The Wal-Mart at that intersection
14 is still open. Other than -- as far as the Mexican restaurant
15 and the other restaurant right on the corner, they are not.

16 Q I believe there is a Roses as well on that corner as well?

17 A Correct.

18 Q And Lowe's as well?

19 A Yes.

20 Q And are those open at that time in the morning?

21 A No, ma'am.

22 Q And when you did proceed to arrest my client at that time,
23 how many people were around at that time?

24 A It was me and him when he was placed in handcuffs in the
25 woods. Another officer was coming down to us but had not made

1 it to us at that point.

2 Q Was there anyone on the trail at that time?

3 A I did not make any contact with anybody else at that time.

4 Q And you said what when you approached him? He was -- that
5 he did -- he did lead you on a pursuit?

6 A Correct.

7 Q Do you recall about how long that pursuit was?

8 A It wasn't far. He made it to the bottom of the hill
9 through the vines and brush and, like I said, jumped over a log
10 into the creek out of my sight, which I was trying to give him
11 commands to show me his hands at that point.

12 Q And you didn't see anyone when you were on that pursuit?

13 A No.

14 Q At the time -- these photos are clearly taken during the
15 daytime with many cars, of course, on this, but at 3:12 a.m.
16 when you were traveling, based on that call, did you see --
17 about approximately how many cars was on the road at that time?

18 A This was not at -- when he was taken into custody, it was
19 not at that intersection. It was farther up the trail towards
20 the other side of the city.

21 Q Okay. So farther up the trail -- are there any
22 restaurants farther up that trail?

23 A That actually comes out to another intersection where
24 there's restaurants, some other businesses, and stuff like
25 that. Those were not open during this particular time. It

1 proceeds up past the access for the hospital and continues on
2 out to the Public Safety building, which is -- somebody's
3 staffing that 24 hours a day.

4 Q Okay. And you said that the caller, based on the diagram
5 on -- I believe that's Government's Exhibit No. 7. The caller
6 that called in at 3:12 a.m., that was near I believe -- that
7 looks like a Burger King; is that correct?

8 A Correct. Right there at that intersection for the Burger
9 King is a 24-hour laundromat and just around -- if you take a
10 right from there, you are in sight of the CVS that's open 24
11 hours a day.

12 Q And that's not pictured here on Exhibit No. 5; correct?

13 A No.

14 Q And when you approached -- or when you did ask him to
15 stop, did you have on your uniform at the time?

16 A I did.

17 Q And did you tell him that you were police at the time?

18 A I do not recall if I actually said I was police or not
19 when I told him to stop; at which point, he went straight into
20 the woods, and I began chasing him.

21 Q And once you did arrest him, you said that he had a
22 flashlight and a book bag, and I believe you said one other
23 item?

24 A There was a backpack on him. He had a large flashlight,
25 like a square battery one, in his hand, and he also dropped a

1 small black flashlight while running.

2 Q And you were able to recover all of those things?

3 A We did.

4 Q Did he voluntarily provide you with his camera as well?

5 A He did. When he was explaining the situation, his first
6 story as to what had -- the reason why he was out there that
7 late, he gave us permission to look at -- one of the officers
8 to look at the photos, and that's how we came about those.

9 Q Okay. And one of the things that he said at the time is
10 that there was a male that was in a hoodie, that he was told
11 that he had to take those pictures?

12 A Correct.

13 Q And did he tell you any other information about the male
14 in the hoodie?

15 A He proceeded to explain to me that during this time frame,
16 during questioning him and trying to get some more information
17 about that -- he provided more information as to that male
18 subject with the hoodie was working for the people that were --
19 that had originally been in his original charges.

20 Q Okay. And did you investigate whether he -- whether there
21 was some threat to his family or anything?

22 A Talking with him, the time frame didn't really add up to
23 me at that point. We made contact with his -- tried to make
24 contact with his mother that night. I don't know if anybody
25 actually spoke to her. I don't recall.

1 Q Okay. But as part of your investigation, have you been
2 able to find out whether there were some threatening matters
3 that was sent to him or his family?

4 A I have not heard anything of that, no.

5 Q But do you -- but you didn't do the investigation?

6 A No.

7 Q Did Mr. Hill -- when you approached him, did he tell you
8 that he had autism?

9 A He did.

10 Q And do you guys -- does your -- I would say does your --
11 does the department train you on how to approach someone with
12 autism?

13 A We deal with some academy-wise and not much follow-up
14 after that.

15 Q Did he also tell you that he was a diabetic as well?

16 A I do not recall him telling me that, no.

17 Q Did he tell you that he was also OCD?

18 A Not that I recall.

19 Q And when you took him to the hospital, did they admit him
20 into the hospital that night?

21 A No, they cleared him medically and psychologically and
22 released him to us.

23 Q Okay. Did you get those reports from -- the medical
24 reports?

25 A No, I did not do a subpoena for his hospital records.

1 Q Okay. Did you speak to a doctor or anyone regarding his
2 condition or anything of that nature that night?

3 A We -- other than just checking with him to see if they
4 were going to be releasing him or admitting him, no.

5 Q Do you recall any tests that were taken that night besides
6 just checking, I believe you said, his knee?

7 A No, ma'am. Like I said, when we -- we also checked him
8 for mental health issues is the reason why they cleared him
9 psychologically, to make sure there was nothing going on there.
10 Once they do that, they do lab work and other stuff. I didn't
11 ask about his medical history.

12 Q Was there any tests dealing with his blood alcohol content
13 or anything of that nature?

14 A I don't know if they did. Like I said, I did not get his
15 records. They normally do, but I do not have that.

16 **MS. PRYOR:** No further questions, Your Honor.

17 **THE COURT:** Any redirect?

18 **MR. RAMASWAMY:** Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 **BY MR. RAMASWAMY**

21 Q Counsel asked you about certain businesses and whether or
22 not they were open in this time frame. Are there residences
23 along this trail?

24 A It is.

25 Q Were there residences close to the trail?

1 A There are.

2 Q Are there residences where there's no obstruction between
3 the residence and the trail?

4 A Yes, sir.

5 Q And this did, in fact, come in on a call of a report of a
6 naked man; correct?

7 A Correct.

8 **MR. RAMASWAMY:** No other questions.

9 **MS. PRYOR:** I just have a follow-up on that.

10 **THE COURT:** All right.

11 **RE CROSS-EXAMINATION**

12 **BY MS. PRYOR**

13 Q Were any pictures taken in front of any houses?

14 A Not on the camera that I saw, no.

15 Q And the residences that he mentioned, are those residences
16 behind trees on the trail?

17 A There's some that back up to it that you can see the trail
18 from, along with -- the original call that came in, the trail
19 actually runs right up the side of the road where the original
20 call came in.

21 Q And did that call come in from a resident?

22 A No, it was a passerby in a car.

23 **MS. PRYOR:** Thank you. No further question.

24 **THE COURT:** What time did you say you were on the
25 scene there the first time?

1 **THE WITNESS:** The original call came in at 3:15, and
2 I had Mr. Hill in custody at 3:22.

3 | **THE COURT:** Any further questions from counsel?

4 **MS. PRYOR:** No, Your Honor.

5 **THE COURT:** Thank you. You may step down.

6 (At 4:26 p.m. witness excused.)

7 | **THE COURT:** Any other evidence?

8 | **MR. RAMASWAMY:** Not from the Government, Your Honor.

9 **THE COURT:** Any evidence from the Defendant?

10 **MS. PRYOR:** Yes, Your Honor. I would like to call
11 Officer Jason McMurray, Your Honor.

12 **JASON MCMURRAY**, DEFENDANT'S WITNESS, being first duly sworn,
13 testified as follows at 4:26 p.m.:

14 DIRECT EXAMINATION

15 BY MS. PRYOR

16 Q Could you state your full name for the Court.

17 | A Yes. Jason McMurray.

18 | Q And where do you work?

19 A I'm a United States probation officer employed in the
20 Western District of Virginia in the Roanoke Division.

21 Q How long have you been with the police -- I mean the
22 probation office?

23	A	Over 10 years.
----	---	----------------

24 Q Okay. And did you have the occasion to supervise
25 Mr. Brian Hill?

1 A Yes, sir, I have supervised him Mr. Hill since about
2 July 1, 2015.

3 Q Okay. And as long as you have been supervising Mr. Hill,
4 has he had any infractions besides the one that we are
5 presently here for today?

6 A The only one was when shortly after he was released from a
7 prior revocation hearing, for which he was not revoked, he was
8 referred to sex offender specific treatment. After a short
9 time of enrollment, the counselor advised that he was not
10 amenable to treatment and recommended that he be terminated. I
11 advised the probation office in this district, who had, in
12 turn, advised the Court, and the determination was made that if
13 he was otherwise stable with no other concerns or issues, we
14 could just continue with supervision.

15 Q Okay. And so he continued on supervision.

16 Did he have the occasion to attend any mental health
17 treatment?

18 A He saw a private counselor named Preston Page that was
19 paid for by his Medicaid, I do believe. He maintained contact
20 with Mr. Page, and I would check with Mr. Page occasionally to
21 see how things are going.

22 Q Are you aware that Mr. Hill is diagnosed with autism?

23 A I am aware, yes.

24 Q And with your reaction and your interaction with him, have
25 you found -- have you found to determine that you do see some

1 level of weaknesses when it comes to -- when it comes to your
2 communication with him?

3 A Sometimes it can be difficult to communicate with
4 Mr. Hill. So I have on many occasions -- he resides with his
5 mother, and I have spoken with Roberta, is his mother's name,
6 to see how things are going. And Mr. Hill has always been
7 respectful. It is hard to communicate with him on --
8 sometimes, but I will speak with his mother, and I have spoken
9 with his grandparents on occasion as well.

10 Q Okay. And when you've talked to Mr. Hill, I think you
11 stated it, has he been respectful with you?

12 A He has.

13 Q And did Mr. Hill tell you -- did you get an opportunity to
14 speak to him about this particular violation hearing?

15 A In what regard?

16 Q Just has he talked to you about what happened or anything,
17 that he spoke to the police officers and that nature?

18 A When he was incarcerated, he had submitted some letters.
19 We have not spoken face to face or on the telephone regarding a
20 violation.

21 Q And other than this violation that we're here today,
22 Mr. Hill, to your recollection, has been in compliance with all
23 of the conditions of his release?

24 A He's been in compliance since I have supervised him until
25 his arrest.

1 Q Okay. Did you --

2 **MS. PRYOR:** Can I have one moment, Your Honor?

3 **THE COURT:** Yes.

4 (Pause in the proceedings.)

5 **BY MS. PRYOR**

6 Q Do you recall what date he was arrested for these matters?

7 A September 21, 2018.

8 Q Okay. And do you recall what date the federal -- that the
9 federal Government -- or, let me say, the probation office
10 filed their violation?

11 A I'm not aware of the exact date that the petition in North
12 Carolina -- this district was filed, but I notified the
13 probation office, and they proceeded to request the violation
14 warrant. I'm not exactly sure of the date.

15 Q Okay. And do you recall whether Mr. Hill, once he was --
16 once he was found guilty in Martinsville, did the Federal
17 Government have a hold on his -- on his detainer?

18 A That is correct, because he was brought into magistrate
19 court in Roanoke for his initial appearance on the violation
20 proceedings.

21 Q Okay. And can you tell the Court what happened at the
22 particular proceeding? Did you attend that proceeding?

23 A Yes, ma'am, I did.

24 Q First, did you attend that proceeding?

25 A Yes, ma'am, I was there.

1 Q And can you tell the Court what the judge recommended
2 based on that proceeding that day?

3 A This took place on December 26, 2018. Magistrate Judge
4 Ballou ordered that he be sent to Butner for a psychological
5 evaluation.

6 Q And how many days was he supposed to be at that -- or go
7 through that process?

8 A He was not returned to court until May 14th of this year,
9 2019.

10 Q Okay. After he returned May 14th of this year, was he
11 released at that time?

12 A Yes, ma'am, he was.

13 Q Okay. And he was released back home?

14 A Yes, to the home that he shares with his mother.

15 Q And did that Court find that he was not a flight risk at
16 the time?

17 A Yes.

18 Q And since he's been home, I believe you said May 14, 2019,
19 has he been in violation of that particular conditions of that
20 release?

21 A No, ma'am.

22 Q Okay. And based on that release, that was -- based on
23 that release on May 14, 2001 [sic], have you had a chance to
24 visit him at home?

25 A Yes, monthly.

1 **MS. PRYOR:** No further questions, Your Honor.

2 **THE COURT:** Any cross?

3 CROSS-EXAMINATION

4 **BY MR. RAMASWAMY**

5 Q You mentioned previously that Mr. Hill's sex offender
6 treatment or counseling was terminated because he was found not
7 to be amenable to treatment; correct?

8 A Yes, sir.

9 Q Do you know what the nature of that was?

10 A Yes, I do. Dr. Keith Fender of Radford Counseling advised
11 that in group treatment Mr. Hill was not accepting
12 responsibility for his underlining charge -- or conviction,
13 rather, and that that would be a detriment to the group, and
14 they determined that he should be removed from group, because
15 part of that is that you accept responsibility and you work
16 through what they call a workbook, which is a quite lengthy
17 piece of material. So it was determined to remove Mr. Hill
18 from the group.

19 Q And counsel asked you if you had spoke to Mr. Hill about
20 this incident. Did Mr. Hill admit the conduct in this
21 violation, the conduct of this hearing?

22 A We did not -- we have not spoken face to face. I have not
23 asked him whether he committed the offense. He had written
24 letters when he was in prison discussing the story that we
25 heard previously about the individual asking him to take the

1 pictures.

2 Q Let me ask you -- I believe it's Government's Exhibit 8
3 was the monthly supervision report for the month of
4 August 2018.

5 A Yes, sir.

6 Q Have you -- did you previously see that exhibit?

7 A Yes, I have previously seen the exhibit.

8 Q Had you seen it before today?

9 A It is a copy of our monthly supervision report, which we
10 receive timely every month from Mr. Hill, and it was
11 representative of one that he sends me every month.

12 Q As far as being a registered sex offender and the
13 conditions of his supervision, would that prevent him from
14 going to parks and places where children congregate?

15 A I would have to review his conditions of supervision, but
16 our standing order in the Western District of Virginia would
17 require permission for someone to go to places that are
18 primarily used by children.

19 Q Did Mr. Hill ever seek such permission in relation to the
20 Dick and Willie Passage?

21 A In the past, he has asked for permission during the
22 daytime hours to go on the trail to take pictures of wildlife
23 and nature.

24 Q Now, the probation office's recommendation in this case is
25 revocation; correct?

1 A That's correct.

2 Q Has that changed, to your knowledge, since the time the
3 report has come up?

4 A To my knowledge, it has not.

5 **MR. RAMASWAMY:** No other questions.

6 **THE COURT:** Any redirect?

7 **MS. PRYOR:** Yes, just one.

8 REDIRECT EXAMINATION

9 **BY MS. PRYOR**

10 Q Did -- we've mentioned about the sexual offense program.
11 Was there a workbook that was provided to Mr. Hill?

12 A To my knowledge, there was, and he completed it very
13 quickly, which the workbook, as it's been explained to me, it
14 takes quite some time to complete. There are numerous phases
15 that you must go through, and it's not something that can be
16 completed without presenting the material to the group and
17 receiving feedback. It's not something that can be completed
18 in a couple of weeks or even a month.

19 Q Okay. And every time that Mr. Hill has went out, Mr. Hill
20 does inform you that he is traveling, or any of that nature;
21 correct?

22 A Yes, ma'am.

23 **MS. PRYOR:** Thank you. No further questions, Your
24 Honor.

25 **THE COURT:** You may step down, sir.

1 (At 4:37 p.m., witness excused.)

2 **THE COURT:** Any other evidence for the Defendant?

3 **MS. PRYOR:** Yes, Your Honor.

4 **THE COURT:** All right.

5 **MS. PRYOR:** I call Ms. Roberta Hill, Your Honor.

6 **ROBERTA HILL,** DEFENDANT'S WITNESS, being first duly sworn,
7 testified as follows at 4:37 p.m.:

8 DIRECT EXAMINATION

9 **BY MS. PRYOR**

10 Q Can you tell us your name for the record.

11 A Roberta Ruth Hill.

12 Q And what is your relationship with Mr. Brian Hill?

13 A I'm his mother.

14 Q Okay. And where does Mr. Hill stay in comparison to where
15 you stay?

16 A In the apartment below my apartment at 310 Forest Street,
17 Apartment 2.

18 Q And so is this a type of duplex type of home?

19 A Yeah, it is.

20 Q Okay. And so do you work during the daytime?

21 A No. I'm at home, and I can check on him any time during
22 the day and night.

23 Q Okay. And so at one time, you guys were having some
24 issues in the same home that Mr. Hill lives in dealing with the
25 chimney; correct?

1 A Yes. There was damage in his apartment with water damage
2 on his wall and ceiling in his living room.

3 Q Did you call someone to get that fixed?

4 A Yeah, I did.

5 Q Do you recall what the name of that company was that you
6 called to get that fixed?

7 A No, I can't recall the name of the company.

8 Q Do you recall how much you paid for getting it fixed,
9 getting the chimney fixed?

10 A They put -- he found out that it had been -- are you
11 talking about the first time before --

12 Q Yes, I'm talking about the first time that you got your
13 home --

14 A Yeah, that was \$300 to get it fixed. I was trying to keep
15 birds from going into the chimney.

16 Q Okay. And so you had a professional come out to get that
17 fixed?

18 A Yes.

19 Q And was there an occasion that you had that same
20 professional come back out to review it because of some issues
21 that you stated?

22 A Yeah, there was another fireplace company that came out to
23 take a look at it in January 30 of 2019.

24 Q Okay. And when they came out to fix it, did they tell you
25 of anything that might have been happening in the home at the

1 time?

2 A Yeah, he said that he found out that all three flues of
3 the chimney had been completely sealed off, and that means that
4 my furnace and hot water heater was venting out through our
5 apartments into -- he said that we would have had carbon
6 monoxide coming into our apartments.

7 Q Okay. And do you recall what date that you had that
8 particular professional come out and say that?

9 A January 30, 2019.

10 Q Okay. And Mr. Hill was -- and you do recall that Mr. Hill
11 was arrested for indecent exposure in Martinsville, Virginia?

12 A Yes.

13 Q Okay. And do you recall what that date was?

14 A September 21, 2018.

15 Q Okay. Did Mr. Hill -- and do you recall Mr. Hill having a
16 trial in Martinsville, Virginia?

17 A Uh-huh.

18 Q And were you present for that trial?

19 A Not the first trial. I was present for the trial in
20 December, December 21, I think.

21 Q Okay. Did he get a chance to come home?

22 A No, he did not.

23 Q Okay. And do you recall the first time that Mr. Hill got
24 a chance to come home after that particular -- after the first
25 time he was arrested?

1 A He came home on May 14, 2019.

2 Q Okay. And did Mr. Hill -- do you recall if Mr. Hill went
3 to the doctor any time in between that time?

4 A Yeah, he fell down one night. I guess he passed out and
5 hit his head on a desk in his office and managed to somehow get
6 back to his bedroom and fall asleep and whenever -- I set my
7 alarm at 4:30 in the morning to check on him, check his blood
8 sugar. I went down there. I saw all the blood on the pillow
9 and realized something had happened, checked his blood sugar,
10 treated an insulin reaction, and then I called 911 because I
11 didn't know what had happened to him, and I saw that there was
12 a gash above his eye. So the paramedics came out. They
13 recommended for him to go to the hospital. He refused to go in
14 the ambulance. So it took four hours for him to go through his
15 OCD routines before I could get him to the emergency room.

16 Q Do you recall when that occurred, about the date when that
17 occurred?

18 A That was during the winter, right after I first got the
19 chimney fixed to keep birds from going into the chimney. It
20 happened right after that.

21 Q Okay. And you stated that it took about four hours for
22 you to get him to the hospital. I believe you mentioned OCD?

23 A Yeah, he has obsessive-compulsive disorder, and he does
24 lengthy hand-washing routines and shower routines.

25 Q Okay. And how long has he been doing that?

1 A He's been doing that since he was in 6th grade.

2 Q Okay. And is Mr. -- has Mr. Hill been diagnosed with
3 autism?

4 A Yes.

5 Q When was he diagnosed with autism?

6 A When he was four years old, he was diagnosed by Teacch in
7 Greensboro.

8 Q And does he have -- and based on him being diagnosed with
9 autism, do you have difficulty communicating with him?

10 A Yeah.

11 Q And what do you -- tell the -- can you tell the Court what
12 that means for you and your family?

13 A Yeah, communication problems. Sometimes when I try to
14 explain something to him, he doesn't quite understand what I'm
15 saying, or he's unable to see my perspective, and sometimes he
16 will get a little upset about it, which isn't unusual for
17 people with autism. So I have to further explain things, or I
18 have to be quiet and let him cool down --

19 Q Okay.

20 A -- before I can talk to him.

21 Q Does he get treatment for autism?

22 A No. There really -- when he was a kid, he was put on two
23 or three different medications that never really helped him.
24 So we had -- Teacch was coming out to help a little bit with
25 the school, but other than that --

1 Q Does he get any treatment now for any mental health or
2 autism now?

3 A No, not for the autism. He is going to a counselor.

4 Q Okay. And what does he go to the counselor for?

5 A He goes to Piedmont Counseling a couple times a month
6 because that's what they wanted -- a condition of his bond.

7 Q And does he -- is he taking any medication at this time?

8 A Yeah, he's taking a medication to help with the OCD and
9 anxiety. I think it's called Zoloft. I'm not sure.

10 Q Okay. That's okay.

11 And as far as -- you mentioned carbon monoxide. Is he
12 taking any -- do you recall if he took any medication for the
13 carbon monoxide treatment?

14 A No, no, he didn't. We didn't know until four months after
15 he was arrested that we had carbon monoxide in our home.

16 Q Okay. And once you found out that you had carbon monoxide
17 in your home, have that been treated in your home at this time?

18 A Yeah, we got it fixed. He unplugged the flue that went to
19 the heater and the hot water heater, and he put a chimney cap
20 on the top. So we don't have any more problems with that.
21 And, plus, we got two carbon monoxide detectors in my apartment
22 and in his apartment.

23 Q Okay.

24 **MS. PRYOR:** I have no further questions, Your Honor.

25 **THE COURT:** Any examination from the Government?

1 **MR. RAMASWAMY:** Yes, Your Honor.

2 CROSS-EXAMINATION

3 **BY MR. RAMASWAMY**

4 Q Ms. Hill, you're pretty familiar with your son's case;
5 correct?

6 A Yes.

7 Q He files things pretty frequently with the court?

8 A Yes.

9 Q Do you assist him with that?

10 A No. That's his -- I'm not even into legal stuff. He's
11 the one that works the legal information, other than I might
12 look up information for him.

13 Q You're saying you don't read what he files?

14 A Sometimes, not all the time because sometimes he's
15 impulsive, and he does it in the middle of night when I'm
16 sleeping, so, no.

17 Q Well, if he's filing things in the middle of the night,
18 does he have Internet access?

19 A No, he does not. He faxes.

20 Q He faxes them?

21 A Uh-huh.

22 Q Some of these things are -- they're filed online, though,
23 aren't they?

24 A No.

25 Q Are you familiar with his story that someone forced him to

1 take these pictures?

2 A Yes, I am.

3 Q That's a story that he repeated for some time, wasn't it?

4 A Yes.

5 Q And it's also in documents that he filed with the court,
6 isn't it?

7 A Yes.

8 Q And at some other time, we have his story that carbon
9 monoxide was to blame; correct?

10 A Right.

11 Q Does that coincide about when Mr. Hill found out there was
12 a probation report on the same memory card?

13 A I don't know.

14 Q You live in the same house with Mr. Hill; correct?

15 A I'm in the apartment above his apartment.

16 Q It's a house?

17 A Yes, connected.

18 Q Yes. You live in the same house with Mr. Hill; correct?

19 A Yes.

20 Q And you claim -- or you're stating there was some type of
21 carbon monoxide problem for which you're trying to relate
22 Mr. Hill's conduct on September 21, 2018; right?

23 A Right. I saw some things with his behavior prior to that
24 time, that I didn't know what was going on, but I thought that
25 he was acting oddly. But, also, I was being exposed, too, and

1 I had some problems that I was dealing with, and I didn't
2 understand what was going on.

3 Q So this wasn't fixed until, I believe you said,
4 January 30, 2019; correct?

5 A That's whenever it was inspected and we found out about
6 the problem, and he removed the tin, yes.

7 Q So from September 21, 2018, to January 30, 2019, if you
8 had such a problem, nothing was done to fix it; right?

9 A Right.

10 **MR. RAMASWAMY:** No other questions.

11 **MS. PRYOR:** Just a follow-up.

12 REDIRECT EXAMINATION

13 **BY MS. PRYOR**

14 Q So from September of 21, 2019 -- I mean, 2018, to, I
15 believe you said, January of 30 of 2019, did you see some
16 problems in your home that was happening?

17 A Yeah. The water damage in my son's apartment got
18 increasingly worse. The ceiling started falling down. I
19 didn't know what was going on because my apartment is right
20 above his, and I wasn't getting any water damage. So I thought
21 initially it has to be the foundation. So I called the
22 foundation place, and they could only come three months later.
23 So I waited for that, and they said it's not the foundation.
24 They thought maybe it's the chimney or the roof. I got a
25 roofing company in. They recommended putting a chimney cricket

1 in front of the chimney. They thought that would stop it. So
2 I got that done. That didn't stop it. So then I called a
3 fireplace expert out to take a look at it, and he found out
4 that it had been sealed up.

5 Q And also -- you mentioned that there was also some things
6 that were affecting Mr. Hill during that time that you couldn't
7 figure out. Can you describe some of those things for the
8 Court?

9 A He was saying that he couldn't think, he couldn't focus,
10 and he was extremely tired. I also was extremely tired, and I
11 didn't know why. I was complaining to my parents. So both of
12 us were complaining about things like not being able to think
13 clearly.

14 Q Okay.

15 **MS. PRYOR:** No further questions, Your Honor.

16 **MR. RAMASWAMY:** One follow-up.

17 **REXCROSS-EXAMINATION**

18 **BY MR. RAMASWAMY**

19 Q Would those things happen more often when you were inside
20 the home with the carbon monoxide?

21 A Yes.

22 Q You've heard the testimony about the conduct; correct?

23 A Yes.

24 Q That happened outside, didn't it?

25 A Yes, but, I mean, I was always tired for that period of

1 time. So, I mean -- and my son was constantly complaining
2 about not being able to think. I can't really say that that
3 was inside the house or outside the house. It was just
4 continually during that time span that we were having problems.

5 Q As a matter of fact, the testimony showed, based on the
6 camera card time, he was outside for several hours on
7 September 21, doesn't it?

8 A Yeah.

9 Q That's not consistent with inhaling carbon monoxide, is
10 it?

11 A Well, from what I've read online, it can cause a lot of
12 different problems. That can -- it could affect your
13 neurological system. I also was having a lot of head shaking
14 going on. My parents noticed that. So it can affect
15 neurological problems in the body.

16 **MR. RAMASWAMY:** No other questions.

17 **THE COURT:** All right. You may step down.

18 (At 4:51 p.m., witness excused.)

19 **MS. PRYOR:** No further evidence, Your Honor.

20 **THE COURT:** Since the Government's got the burden
21 here, I would be happy to hear from the Government.

22 **MR. RAMASWAMY:** Your Honor, in this case, the
23 violation is the Defendant committed the criminal violation of
24 the Virginia Code for indecent exposure. I have given the
25 Court the statute, but, here, if it had only been the phone

1 call and the arrest, that's one thing, but we have a series of
2 photographs which are just plainly inexplicable.

3 As to the violation itself --

4 **THE COURT:** Let me ask a question about the
5 photographs. They are taken from a distance. How does
6 somebody take a photograph from a distance like that?

7 **MR. RAMASWAMY:** I would ask the Court to note a
8 couple of things. One is the officer's testimony about
9 flashlights. He had two flashlights. And, second, in the
10 vantage point of the photographs themselves, note the proximity
11 of the ground, and it would be our contention the camera is
12 simply set on the ground and a timer is used. As a matter of
13 fact, some of them appear to be retakes. Where Government's
14 Exhibit 1, for instance, the top right photo, sanyo096, is too
15 dark, the next photograph in sequence sanyo097 is well lit. In
16 effect, it supports the inference that he repositioned the
17 lights in order to more clearly take the photographs.

18 There's no one else depicted in these photographs.
19 In every one of them, they appear to be taken with the camera
20 set on the ground.

21 **THE COURT:** All right.

22 **MR. RAMASWAMY:** In this case, as to the conduct
23 itself -- I'm not at this point addressing anything else -- two
24 things. His initial story is clearly impossible, that someone
25 gave him a camera and told him to take these pictures under

1 threat of his family, the fact that his violation -- his report
2 to his probation officer is found on the same memory card with
3 him being shown as the author, the conduct for a registered sex
4 offender convicted of child pornography offenses to be naked,
5 not just exposing himself -- this would be a different matter
6 if Mr. Hill had simply been walking and chose to relieve
7 himself and could have technically violated the statute, but
8 Mr. Hill was wearing socks, sandals, and a hat, and that's all.

9 As shown on Government's Exhibit 7, the map with the
10 annotations, the photographs are taken some distance away, not
11 only from his residence, but where he was observed and reported
12 to the police naked and where he's arrested, that the duration
13 of the conduct, the nature of the conduct, photographing the
14 conduct for whatever reason all support the violation. We
15 would ask that he be found in violation.

16 **THE COURT:** All right.

17 Ms. Pryor?

18 **MS. PRYOR:** Thank you, Your Honor.

19 Your Honor, we, of course, would ask that he does not
20 be found in violation, Your Honor. As you've had the
21 opportunity to hear, Your Honor, the statute does indeed state
22 that every person who intentionally makes an obscene display or
23 exposure of his person shall be found guilty of a Class 1
24 misdemeanor.

25 Your Honor, I believe that we presented evidence here

1 today that would discredit the intent of the party, or the
2 intent of Mr. Hill. One of the elements that we are faced here
3 with is the intent element here. Your Honor, I believe that
4 the Government, one, has not provided the intent and, two, that
5 this Court has the opportunity to determine the facts that were
6 presented today to determine whether the intention of the party
7 was to make an obscene display or expose himself -- exposure of
8 himself.

9 Your Honor, you had the opportunity to hear from his
10 mother, who stated that at the time of this incident that there
11 has been evidence that there was some carbon monoxide that had
12 been displayed in their home, and based on that, Your Honor,
13 she went further to state that in her research, Your Honor,
14 when it comes to carbon monoxide, that based on that research,
15 that it does causes some level of delusion, some level of --
16 they even talked about -- she even discussed possibly that they
17 were beginning to have some headaches, that there were some
18 things that --

19 **THE COURT:** How do I rely on that in this hearing?
20 That's hearsay, and it's --

21 **MS. PRYOR:** It is hearsay.

22 **THE COURT:** I mean, it's not -- it's scientific
23 evidence, and there's no indication she's qualified to -- I
24 don't even know what her source was, whether it was Wikipedia
25 or what have you. So I am concerned about whether there's

1 enough scientific foundation for any conclusions about the
2 effect of carbon monoxide.

3 **MS. PRYOR:** Your Honor, we do understand that, Your
4 Honor, but the factual part of what she did state was the
5 things that affected her, Your Honor, and the things that she
6 did, who has been his caretaker -- the things she saw affect
7 him.

8 So, Your Honor, we would state that there was some
9 level of affect that was going on that can be determined just
10 to Mr. Hill presently, Your Honor, that would show some level,
11 and then to actually have the evidence that there was some
12 carbon monoxide and to begin to start the process of fixing it.

13 So, Your Honor, we would state that Mr. Hill, based
14 even on this -- based on this statute, that the intent factor
15 has not been met here today, Your Honor, and that he should not
16 be found in violation of his release conditions, Your Honor.

17 **THE COURT:** Okay. I am going to find that the
18 preponderance of the evidence demonstrates that Mr. Hill did
19 violate the condition of release by violating the Virginia Code
20 18.2-387. As the officer testified, it's actually the local
21 version, but it's apparently the same statute, and that's what
22 he's charged with in that he did intentionally expose himself
23 and make an intentional either obscene display and actually
24 exposure -- intentional exposure of his person. The
25 photographs are evidence of that.

1 He's also seen, by the officer's independent
2 testimony, to have been naked at the time and was running
3 around the neighborhood. So I credit the testimony of Sergeant
4 Jones and find him to be credible and that about September 21,
5 2018, that the Defendant was naked and running around
6 Martinsville, Virginia, taking pictures, which are indicated in
7 the Government's exhibits.

8 As to the testimony about intent -- or the argument
9 about intent, the evidence on a preponderance basis
10 demonstrates that Mr. Hill intended to do this. The story
11 about him being forced to do this by another individual finds
12 no support in the record. It's also inconsistent with some of
13 the information that's testified to by Sergeant Jones, who -- I
14 went back and was just checking his testimony, who did say that
15 the other individual, the male, asked him to -- or demanded he
16 take pictures. There's no testimony by anybody that there was
17 any kind of threat like that made, and the camera that
18 allegedly was given to Mr. Hill to take these photos, it
19 strikes me as virtually impossible that it would contain a copy
20 of the Defendant's own court records. So that's inconsistent
21 with that story as well.

22 So I'm going to find the preponderance of the
23 evidence demonstrates the Defendant violated Virginia law by
24 indecently exposing himself at the time alleged. So I'm going
25 to find as well that the violation was willful and without

1 lawful excuse.

2 He originally was convicted of a Class C felony.
3 He's a Criminal History Category I. This is a Class C
4 violation. The guidelines provide a 3- to 9-month advisory
5 imprisonment range. The most that can be imposed on him is 24
6 months.

7 As to supervised release, the original term of
8 supervised release available under the statute is, I believe, 5
9 years to life. He had had 10 years of supervised release
10 imposed by Judge Osteen, but the term that's available could be
11 5 years to life under the statute.

12 I will say it would be my intention to work off the
13 10 years and work -- and consider nothing more than the 10
14 years that Judge Osteen -- that's the maximum that I would
15 consider for supervision. Does that make that clear?

16 **MS. PRYOR:** Thank you, Your Honor.

17 **THE COURT:** That would be my intention, but I would
18 be glad to hear from you all as to that.

19 So do you agree or disagree that those are the proper
20 guidelines?

21 **MS. PRYOR:** That was the proper guidelines, Your
22 Honor.

23 **THE COURT:** Mr. Ramaswamy?

24 **MR. RAMASWAMY:** Yes, Your Honor.

25 **THE COURT:** So I've got about 10 minutes, and we can

1 continue this, if we need to, in the morning or on another
2 date. I would be happy to hear from you as to an appropriate
3 disposition in this case.

4 **MS. PRYOR:** Thank you so much, Your Honor.

5 Your Honor, today we are asking Your Honor -- I would
6 note, and I think you heard on testimony as well, that Mr. Hill
7 was on a federal detainer. I believe it began on December --
8 we tried to come to a date about, but I believe it was around
9 December 21 of 2018, and he was held into custody until May 14
10 of '19. So, Your Honor, that's give or take about 6 months
11 already.

12 This violation, as you note from the guidelines, Your
13 Honor, is a -- falls within that period of time, Your Honor. I
14 believe 6 months is, I believe, in the revocation that they
15 were asking for. It was around the middle, which would put us
16 right at that 6-month period.

17 Your Honor, we would ask that you would give him
18 credit for time served for that particular time, to continue
19 him on supervised probation that you've -- I mean, I'm sorry,
20 supervised release, Your Honor, pending that, but, Your Honor,
21 I do believe that he has served and he was -- as we can recall,
22 he was on that detainer, Your Honor. He could not leave, of
23 course, or if he even -- with the bond. So we can conclude
24 that he definitely was on a federal detainer at that time. He
25 did get released on conditions from the Virginia -- from

1 Virginia, and so that would also conclude that he did have that
2 time and it was through the Federal Government.

3 **THE COURT:** Will the Bureau of Prisons give him
4 credit for the time that he was sent to Butner as time-served
5 credit or not?

6 **MS. PRYOR:** I'm not sure, Your Honor. I actually
7 called the Bureau of Prisons before so I could know that
8 answer. That was actually my question as well. Your Honor,
9 I'm not sure how that process works, and I was waiting on
10 someone to call me back from the Bureau of Prisons. And I
11 believe the attorney was supposed to call me back in order to
12 conclude that or give us an estimation of whether the Bureau
13 does consider time when you're determining competency, whether
14 that time is conclusive or does it even give them credit for
15 that when it comes to a sentencing term.

16 So, Your Honor, I don't have that answer. I would
17 like to, of course, get that answer, Your Honor, because as I'm
18 standing here asking for you to use it as credit, I can't
19 factually or be able to --

20 **THE COURT:** I understand.

21 **MS. PRYOR:** Okay. Thank you.

22 **THE COURT:** Anything further?

23 **MS. PRYOR:** So, Your Honor, I would ask -- of course,
24 that is the sentence that they have requested, but, Your Honor,
25 we would ask the Court for the bottom of the guidelines, Your

1 Honor.

2 I would remind the Court that he does have autism. I
3 remind the Court that he has OCD. I remind the Court that he
4 does have some debilitating health issues that he does have
5 that deals with his diabetes.

6 Your Honor, Mr. Hill in custody or in prison is very
7 destruction to him as a person, who does see things and
8 perceive things, of course, differently than we do as being on
9 the autism spectrum.

10 **THE COURT:** Is he still in custody now?

11 **MS. PRYOR:** He is not in custody now.

12 **THE COURT:** He was released May 14?

13 **MS. PRYOR:** He was, Your Honor.

14 **THE COURT:** From Butner?

15 **MS. PRYOR:** No, he was released from court, Your
16 Honor. He actually got out of Butner I believe it was around
17 February, and then he was -- then he went back to court, and
18 then he was released on conditions.

19 **THE COURT:** So he was released from Butner in
20 February?

21 **MS. PRYOR:** He was released from Butner in February.
22 They sent him to another custody situation, I guess, just in
23 the process, and some things -- and this is why I bring this
24 up, too. Because of his autism, he has some issues in the jail
25 with one of the wards, and they were supposed to send him back

1 directly after, but they put him in some level of solitary in
2 another jail.

3 All in all, he didn't get back, of course, until
4 May 14, and so that's why I stand here and ask for the credit,
5 because I would hope that the Court would -- and I say that
6 because we do understand that you've made that he has violated
7 this, and based on that, there is a punishment that must go
8 with it; but, Your Honor, I would state because of his
9 condition and because of OCD and because of autism, the courts
10 and BOP, having to learn to deal with someone with autism, I
11 don't believe that they are there yet, which makes it difficult
12 on the person. And because of -- you know, because of that,
13 Your Honor, I would ask that if you do find that you want to
14 sentence him, there are some other alternative ways of
15 sentencing him. He's been successful, as you heard from his
16 probation officer, being at home, home detention where he
17 cannot leave --

18 **THE COURT:** Before you go on further, let me just see
19 what the Government's position is, but I don't know if they're
20 opposing. He's essentially been incarcerated now for close to
21 6 months, in some form or another.

22 Are you opposing some kind of sentence that would be
23 in effect a time-served sentence?

24 **MR. RAMASWAMY:** Yes, Your Honor.

25 **THE COURT:** Okay.

1 **MS. PRYOR:** And so, Your Honor, there are some other
2 alternative ways of doing prison -- or doing punishment. As
3 you heard, Mr. Hill has been successful with being at home. He
4 can be placed on home detention. He can have an electronic
5 monitor. He can be placed on home detention for up to 6
6 months, even up to a year, if Your Honor so requires.

7 Him being at home, he has the opportunity to -- I
8 mean, he won't have the opportunity to leave. His family does
9 travel, and they do enjoy traveling. He won't have the
10 opportunity to travel, some of the things that he takes -- some
11 of the things that he enjoys doing.

12 Your Honor can also make it any other conditions
13 that, of course, Your Honor would provide, but, Your Honor, I
14 would ask because of what he -- because he's been successful
15 through his probation of showing that he is consistent about
16 sending his report, he's consistent about contacting them, he's
17 consistent about making sure that they know where he is at all
18 times, he's consistent about being respectful to the officer,
19 so I would state that having him at home with his family and
20 even if -- like I say, even if it's more closed in where he
21 cannot leave the home I think would still satisfy the
22 punishment that is here.

23 As you heard, he does -- I believe they stated that
24 he walks that trail even during the daytime. So he does enjoy
25 going outdoors. So having the -- where the Court would tell

1 him he could not go outdoors anymore is a punishment as well.

2 So, Your Honor, I do believe that you can satisfy the
3 factors here of the condition of him being at home on
4 detention. Whether 6 months to a year, you can satisfy the
5 condition of whether it would be a deterrence because, as you
6 note, Mr. Hill does like to travel with his family. So that is
7 the deterrence, that he won't be able to travel.

8 And being with his autism, his mindset and what he
9 thinks is differently than what it is for us or any other
10 prisoner that we could sentence to custody. His punishment is
11 just the violation, being sentenced to -- him being violated.
12 That's the difference of the sentence that he gets here today.

13 So, Your Honor, I would just ask that you would
14 consider those other alternative ways of punishment today and
15 that you would sentence him within the guidelines but through
16 alternatives ways of doing it.

17 **THE COURT:** All right.

18 **MS. PRYOR:** Thank you.

19 **THE COURT:** All right. Mr. Ramaswamy?

20 **MR. RAMASWAMY:** Your Honor, I don't wish to
21 prolong -- I don't wish to speak so long that the Court is
22 going to miss any deadlines.

23 **THE COURT:** Well, how long do you want to speak?
24 What is it the Government's arguing for?

25 **MR. RAMASWAMY:** I would first say that the Defendant

1 is a registered sex offender who spent at least three hours out
2 that night naked, photographing himself for some unknown
3 reason. And the Court has also heard testimony that there were
4 other reports of a naked man in a stocking cap, and he's shown
5 wearing a stocking cap prior to this, and that there were no
6 such reports after Mr. Hill's arrest.

7 This is not Mr. Hill's first violation. He was not
8 revoked last time, and I'm not saying that would have been
9 appropriate; but on these facts, it is completely appropriate.
10 The probation officer is recommending the high end here. Under
11 the Chapter 7 limits and not going into Protect Act, I would
12 concur with that. I would ask the Court to sentence him to the
13 9 months. I don't know if whatever time he spent in the
14 evaluation counts. I can't say.

15 **THE COURT:** Should I take that into account? I mean,
16 he was essentially locked up for 6 months.

17 **MR. RAMASWAMY:** Yes. I'm not saying it's not
18 appropriate that the Court take it into account, but I don't
19 think simply telling Mr. Hill to stay at home and make him wear
20 a monitor -- he's proven he can't self-regulate. He's
21 consistently denied the offense conduct of the original
22 offense, of the other violation. It's always some nefarious,
23 outside force that makes Mr. Hill do things, now from someone
24 handing him a camera until, here, carbon monoxide. Mr. Hill
25 has consistently shown he doesn't take responsibility for what

1 he does, and he's inappropriate to trust in the form of
2 self-regulation.

3 **THE COURT:** What role does his autism play in all of
4 this?

5 **MR. RAMASWAMY:** I think we're all familiar with
6 what's in the reports as to his mental state. More than the
7 autism, there is the diagnosis of delusional disorder. That is
8 in his prior records. I think the Court has dealt with persons
9 with autism before, and that's a larger topic to get into than
10 here. I think we've all been considerate. The Government, the
11 Court, the Court in the original case, counsel has been
12 considerate of the Defendant's mental condition, but on this
13 conduct, there is an overriding concern of public safety.

14 Even at the high end of what's recommended, it's
15 likely lower than someone without Mr. Hill's condition would
16 have gotten on these facts.

17 **THE COURT:** So what's the punishment for this in
18 Virginia? He's been convicted. What has he been sentenced to?
19 Do you know?

20 **MR. RAMASWAMY:** I don't know what the original
21 sentence was.

22 **THE COURT:** Ms. Pryor probably knows. What was his
23 sentence?

24 **MS. PRYOR:** Your Honor, he was given credit for
25 time -- he was given credit for time served. I believe it was

1 a 60-day sentence, Your Honor, because it's less than a year.

2 **THE COURT:** Okay. Was that in addition to the 6
3 months he was in federal custody?

4 **MS. PRYOR:** No, that was not, Your Honor.

5 **THE COURT:** All right.

6 **MR. RAMASWAMY:** Thank you, Your Honor.

7 **THE COURT:** Mr. Hill, is there anything you would
8 like to say on your own behalf before I make a decision as to a
9 disposition of your case? Let me say to you that you have no
10 obligation to speak. You enjoy the right to remain silent
11 under our Constitution. If you wish to remain silent, I will
12 not hold that against you. On the other hand, if you would
13 like to say anything before I make a decision, this would be
14 the right time.

15 **THE DEFENDANT:** Respectfully, yes, I do, Your Honor.
16 I would like to bring up that I have been involved in a 2255
17 motion since 2017. If I have to admit guilt to something I did
18 not do, I would be committing over five acts of perjury. So am
19 I going to be required by the probation office to commits acts
20 of perjury, because I kept saying under penalty of perjury, I'm
21 innocent? I filed something that the guilty plea cannot be
22 valid if I withdrew it. The 2255 is still pending before
23 this Court, and to force me to admit guilt to something I did
24 not do is detrimental and puts me at risk of multiple perjury
25 charges.

1 And the carbon monoxide -- I have a lot of proof,
2 Your Honor. I've got sinus tachycardia. I've got abnormal red
3 blood cell count, abnormal white blood cell count. All these
4 are in medical records, and the National Institute of Health --
5 my mom has documents from the National Institute of Health and
6 government agencies saying that carbon monoxide can be linked
7 to all kinds of problems that I had had last year, like
8 psychosis and hallucinations. And I have credible government
9 documents that all backs up everything I'm saying. That's why
10 I sent a letter to Martinsville Police Department on the
11 conduct, apologizing and saying that, look, carbon monoxide
12 caused this.

13 There might be a guy in a hoodie. There was a
14 threatening greeting card that my mother did receive that said
15 they will do a controlled action against my mother if she
16 doesn't stop putting stuff on YouTube. If she doesn't stop
17 what she's doing, they're going to commit a controlled action
18 against her. That was July 2018.

19 Your Honor, there's a lot more evidence that couldn't
20 be presented at this hearing. We needed more time. That's why
21 I filed the notice of interlocutory appeal. We would have had
22 witnesses to come and testify. We need more time, and I need
23 to go through the state appeal because I am actually innocent.
24 According to my lawyer, Scott Albrecht, the public defender of
25 Martinsville, he said, you are innocent because you did not

1 engage in obscene-type conduct. And that means, you know, I
2 never masturbated. I never did anything sexual. I was just
3 naked. So he said that I am legally innocent under the
4 Commonwealth of Virginia. That's why I'm appealing it so that
5 I could be found actually innocent, and I plan to file a motion
6 for the writ of actual innocence in Virginia. Even though it's
7 normally sent to -- you know, felonies, I'm going to try to
8 push for it, and I'm going to ask the Attorney General to have
9 me found actually innocent because I am actually innocent.

10 **THE COURT:** All right, sir.

11 Can I speak to the probation officers briefly,
12 please?

13 (Off-the-record discussion.)

14 **THE COURT:** All right. I've already found by the
15 preponderance of the evidence that the Defendant violated the
16 valid conditions of his supervised release, and the violation
17 was willful and without lawful excuse. I'm going to order that
18 the supervised release term be revoked.

19 I've considered the factors under 3553(a) that apply
20 under 3583(e) in this case, and one of the factors is the
21 nature and circumstances of the offense. Here, the Defendant
22 was exposing himself throughout the city of Martinsville, and
23 the photos are part of the record in this case, which indicate
24 how he exposed himself, which is proof of the exposure, which I
25 found to be a violation of the indecent exposure law in

1 Virginia.

2 Another factor is the history and characteristics of
3 the Defendant. I've considered the multiple factors here
4 indicated, including the Defendant's autism and his OCD, the
5 diabetes, his age.

6 And I'm concerned about deterrence because this is
7 the second hearing we've had on revocation. The exposure in
8 this case was intentional and purposeful. There's really no
9 way to explain otherwise. He's running around naked, taking
10 pictures of himself and posing for the pictures of his
11 genitals, and he's doing it in the open in the public. How he
12 would have thought he'd never have been caught by this is kind
13 of hard to fathom, but maybe because it's 3:00 in the morning.

14 I'm trying to take into account and give heavy
15 deference to the fact that I know he has autism. On the other
16 hand, he's extremely articulate in his various filings with the
17 court and his allocution. Mr. Hill is very capable of
18 explaining things. It may not always be rational, but he's
19 capable of explaining things. So I am trying to distance all
20 of that.

21 In this case, I'm taking into account the fact that
22 he's been in federal custody since December 21st.

23 **MS. PRYOR:** Yes, Your Honor.

24 **THE COURT:** I'm going to impose the 9 months. That's
25 within the guideline range that the probation office has

1 recommended. That is the high end of the guidelines.

2 As a practical matter, that's, I think, 3 months from
3 now, roughly 3 months from now, because I am anticipating that
4 he should be getting credit for all of his time since
5 December 21st because he's been in federal custody. Whether
6 he's been at Butner being evaluated or wherever he was, he was
7 in still in federal custody.

8 So my sentence of 9 months is under the understanding
9 that he's getting credit for his time since December 21. It's
10 also acknowledging that he's been in state custody before that
11 and was punished in state custody, but the violations of
12 supervised release, generally speaking, run consecutive to
13 state punishment. And in this case, I think that's an
14 appropriate punishment.

15 The willfulness of this violation is what still
16 strikes me. Even though I know he's autistic and he has
17 issues, it's hard to deny the willful, intentional conduct
18 here.

19 So I'm going to order that Mr. Hill be committed to
20 the custody of the United States Bureau of Prisons for 9
21 months. As I've said, that's with the intention that that
22 would essentially be running from December 21, 2018, to the
23 present because he would be getting federal credit for that
24 time.

25 I am going to reimpose 9 years of supervision in this

1 case under the same terms and conditions already disclosed in
2 this case.

3 All right?

4 **MS. PRYOR:** Your Honor, I do have a question. If the
5 attorney or -- once they do return my call, if they do not give
6 him credit for that 5 months that he was in custody, is that
7 still Your Honor's position?

8 **THE COURT:** No. My belief is he should get that
9 credit. So my sentence is based on the understanding that he
10 will be getting credit since then. What I guess I would tell
11 you is it will take me a few days to get the judgment prepared.

12 **MS. PRYOR:** Yes, Your Honor.

13 **THE COURT:** I would encourage you to check with the
14 Bureau of Prisons and be sure about that. If that's a problem,
15 let me know, and under Rule 35, I think it is, I will regard
16 that to be a mistake in fact.

17 **MS. PRYOR:** That's correct.

18 **THE COURT:** Unless there is an objection by the
19 parties, I would consider making that change to reflect that.

20 **MS. PRYOR:** Thank you, sir.

21 **THE COURT:** Anything else? Have you had an
22 opportunity speak -- oh, is he in custody now?

23 **MS. PRYOR:** He is not in custody, Your Honor.

24 **THE COURT:** He's been out of custody at the present
25 time. Is this a case where he can self-report, and is there

1 any objection?

2 **MS. PRYOR:** Your Honor, that would be my request,
3 Your Honor. His family did come all the way from Martinsville,
4 Virginia, and the probation officer and him have a great, great
5 relationship.

6 **THE COURT:** Let me ask: Is there any objection to
7 self-reporting?

8 **MR. RAMASWAMY:** For the Government, I do oppose it,
9 Your Honor. I understand Probation's position, if I'm not
10 mistaken, is he be allowed to self-report.

11 **THE COURT:** What is the Probation's view?

12 **THE PROBATION OFFICER:** Your Honor, he's followed
13 instructions thus far. I don't see why he wouldn't now.

14 **THE COURT:** Is he on location monitoring?

15 **THE PROBATION OFFICER:** No, sir, not at the present
16 time.

17 **MS. PRYOR:** Your Honor, we have no objection to him
18 being on location monitoring, but I would ask that he does
19 self-report. He's never had an issue with Probation.

20 **THE COURT:** I'm -- given the myriad of factors in
21 this case -- he's still living with his mother; right?

22 **MS. PRYOR:** He does.

23 **THE COURT:** I'm going to find he's not likely to flee
24 or pose a danger to the community under circumstances where
25 he's on GPS monitoring. So I'm going to add a condition to his

1 supervision that he be given GPS location monitoring, and he
2 can self-report then.

3 Do I have a date, Ms. Engle?

4 **MS. PRYOR:** Your Honor, this might be a stretch to
5 ask, but I believe his next court date is December 3. I was
6 wondering, Your Honor -- it's really important to him that he
7 be able to attend that hearing -- if it could be a date after
8 December 3 to report.

9 **THE COURT:** Any objection?

10 **MR. RAMASWAMY:** Your Honor --

11 **THE COURT:** It's going to take Bureau of Prisons 6 or
12 8 weeks at a minimum.

13 **MS. PRYOR:** It does, Your Honor.

14 **THE COURT:** So we'll be into November.

15 **MR. RAMASWAMY:** Given the conduct, the Government
16 does not consent to that.

17 **THE COURT:** Okay.

18 **THE PROBATION OFFICER:** Your Honor, just as a matter
19 of logistics, if he were to be released to location monitoring
20 technology, that technology should be installed immediately.
21 We would request a -- that the Court agree to a short delay of
22 the installation of that, just given the logistics of him
23 traveling back to the Western District of Virginia and the
24 Western District of Virginia installing their equipment.

25 **THE COURT:** How many days would you like before?

1 **THE PROBATION OFFICER:** Your Honor, I think we can
2 take care of that Monday.

3 **THE COURT:** So you can add that to the condition,
4 that within 7 days that it be placed at the discretion of
5 Probation. How about that? Does that work?

6 **THE PROBATION OFFICER:** Thank you, Your Honor.

7 **THE COURT:** All right. So as long as he's on
8 location monitoring, I'll set it for Friday, December 6, noon,
9 report to the U.S. Marshal in Greensboro, if he hasn't received
10 a designation.

11 **THE PROBATION OFFICER:** I apologize, Your Honor.
12 Just for further clarification, is that a home incarceration or
13 a curfew? He would need to be placed under one of the three
14 programs as well.

15 **THE COURT:** Is there a recommendation?

16 **THE CLERK:** Is it a revision? An order of release or
17 a condition of his supervision?

18 **THE COURT:** Well, I don't know -- we'll figure out
19 that in a minute.

20 **THE PROBATION OFFICER:** I would simply recommend at
21 least a curfew. With GPS, you can order a curfew that's
22 restrictive enough to monitor his whereabouts throughout the
23 day.

24 **THE COURT:** Okay. That's a -- the case manager
25 raised a good question. This is actually not a condition of

1 supervision. I think this is going to be a release condition
2 so he can remain on his own. So the magistrate judge's order
3 on release will be modified to add a condition for location
4 monitoring. You think home -- a curfew is sufficient?

5 **THE PROBATION OFFICER:** Your Honor, I believe a
6 curfew that's at the discretion of the probation officer would
7 be --

8 **THE COURT:** I will add a curfew at the discretion of
9 Probation. Probation is doing an excellent job of working with
10 Mr. Hill. I just want to make sure that he's in at night.

11 **MS. PRYOR:** Yes, Your Honor.

12 **THE COURT:** All right. I don't want him running
13 around naked anymore anywhere.

14 **MS. PRYOR:** Yes, Your Honor.

15 **THE COURT:** Does that address all those issues?

16 **MS. PRYOR:** It does, Your Honor.

17 **THE COURT:** Ms. Pryor, let me know right away if you
18 hear otherwise.

19 **MS. PRYOR:** I will, yes, sir.

20 **THE COURT:** Because the judgment will be issued here
21 shortly.

22 Have you had an opportunity to speak with Mr. Hill
23 about any appellate rights he may have?

24 **MS. PRYOR:** I have, Your Honor. He would like to
25 file his notice of appeal.

1 **THE COURT:** For the record, just so that I've advised
2 him, make sure he's aware, if he does want to file a notice of
3 appeal, he must do so in writing within 14 days of the entry of
4 the Court's judgment. If he cannot afford the cost of his
5 appeal, he can ask the Fourth Circuit to waive the cost.

6 If you want to file the notice of appeal -- I haven't
7 entered a written judgment yet, but it only has to be entered
8 within 14 days of the written judgment.

9 **MS. PRYOR:** I understand. Thank you, Your Honor.

10 **THE COURT:** Ms. Hill, please keep an eye on your son.
11 I hope there won't be any problems between now and whenever he
12 gets a reporting date so that we don't have any further issues.
13 Okay.

14 **MS. PRYOR:** Thank you so much, Your Honor.

15 **THE COURT:** Good luck. I know it's a challenge.
16 All right. Anything further?

17 **MR. RAMASWAMY:** No, Your Honor.

18 **THE COURT:** All right. Please adjourn Court.

19 (END OF PROCEEDINGS AT 5:35 P.M.)
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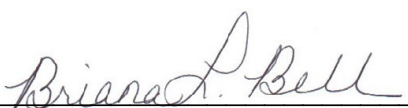
1 UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF NORTH CAROLINA

3 CERTIFICATE OF REPORTER

4
5
6 I, Briana L. Bell, Official Court Reporter, certify
7 that the foregoing transcript is a true and correct transcript
8 of the proceedings in the above-entitled matter.

9
10 Dated this 4th day of November 2019.

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14 Briana L. Bell, RPR
15 Official Court Reporter
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